

SENATE BILL No. 294

DIGEST OF INTRODUCED BILL

Citations Affected: IC 30-4-3.5-1; IC 34-30-2-131.

Synopsis: Trustee duties concerning life insurance. Amends the duties of a trustee with respect to acquiring or retaining a contract of life insurance for purposes of the Indiana uniform prudent investor act.

Effective: July 1, 2008.

Zakas, Lanane

January 10, 2008, read first time and referred to Committee on Judiciary.

C
o
p
y



Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 294

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-4-3.5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as
3 otherwise provided in ~~subsection~~ **subsections (b) and (c)**, a trustee who
4 invests and manages trust assets owes a duty to the beneficiaries of the
5 trust to comply with the prudent investor rule set forth in this chapter.

6 (b) The prudent investor rule, a default rule, may be expanded,
7 restricted, eliminated, or otherwise altered by the provisions of a trust.
8 A trustee is not liable to a beneficiary to the extent that the trustee
9 acted in reasonable reliance on the provision of the trust.

10 (c) **Except as provided in subsection (d), the duty of a trustee**
11 **with respect to acquiring or retaining a contract of insurance on**
12 **the life of a settlor or a settlor's spouse does not include the**
13 **following:**

14 (1) **A duty to determine whether a contract of insurance is or**
15 **remains a proper investment.**

16 (2) **A duty to exercise policy options, including investment**
17 **options, available under a contract of insurance.**



C
o
p
y

(3) A duty to diversify a contract of insurance.

A trustee is not liable to any party for a loss arising from a trustee's failure to determine whether a contract of insurance is or remains a proper investment, a trustee's failure to exercise policy options, including investment options, available under a contract of insurance, or a trustee's failure to diversify a contract of insurance.

(d) With respect to a trust established before July 1, 2008, subsection (c) applies to the trust only if:

- (1) the trustee of the trust notifies the settlor in writing that subsection (c) will apply to the trust unless the settlor provides to the trustee, less than sixty (60) days after the settlor receives the trustee's notice under this subdivision, a written objection to the application of subsection (c) to the trust; and**
- (2) the settlor does not provide to the trustee, less than sixty (60) days after the settlor receives the trustee's notice under subdivision (1), a written objection to the application of subsection (c) to the trust.**

SECTION 2. IC 34-30-2-131, AS AMENDED BY P.L.238-2005, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 131. (a) IC 30-4-3-1.5 (Concerning actions of a trustee who does not know that a trust has been revoked or amended).

(b) IC 30-4-3-6.5 (Concerning actions of a trustee who does not know of the happening of an event that affects the trust).

(c) IC 30-4-3-11 (Concerning trustees and beneficiaries of a trust in certain circumstances).

(d) IC 30-4-3.5-1(c) (Concerning trustees and life insurance contracts).

**C
o
p
y**

